



DEBIT AGREEMENT

MERCHANT DEBIT CARD PROCESSING AGREEMENT

This MERCHANT agreement is made by and between National Bank of the Redwoods (NBR) and MERCHANT whose name, complete address and type of business is stated at the end of this agreement.

RECITALS

WHEREAS, NBR is a member of Point-Of-Sale (POS) networks (individually the Electronic Funds Transfer (EFT) Network and collectively the EFT Networks) set forth below, and is willing to sponsor MERCHANT as a participant in each POS EFT Network, under the terms of the rules and regulations of each such POS EFT Network; and

WHEREAS, MERCHANT has applied through the NBR to become a participant in those POS EFT Networks listed herein, and MERCHANT agrees to access each POS EFT Network through the facilities provided. NBR is willing to provide services on the terms and conditions set forth herein;

WHEREAS, MERCHANT has entered into a merchant Debit agreement with NBR. NBR has agreed to provide a transaction authorization service to enable MERCHANT to offer POS transactions at MERCHANT locations and has further agreed to transfer all funds due MERCHANT in accordance with terms of the POS and Debit Card Merchant Agreement;

WHEREAS, by executing this Agreement, MERCHANT acknowledges that it will not be able to participate in the NBR'S system until it has met all required rules, regulations, and operating standards; NOW THEREFORE, in consideration of the promise and mutual covenants set forth herein it is agreed as follows:

A. POS EFT NETWORK PARTICIPATION; RESPONSIBILITIES; COMPLIANCE;

1. MERCHANT agrees to become a participant in each POS EFT Network as set forth in the agreement herein and requests NBR to facilitate such participation.
2. MERCHANT agrees to comply with all POS EFT Network rules, regulations, procedures, fees, assessments, penalties, and other membership duties, obligations, and costs of each such POS EFT Network, which are applicable to MERCHANT during the term of this Agreement.
3. NBR will provide a transaction authorization service which will enable the MERCHANT to offer its customers a method of payment using ATM/debit cards. MERCHANTS who agree to comply with the Operating Rules of POS EFT Networks will be permitted to accept certain ATM/debit cards and access NBR'S data center for authorization through dedicated line facilities contracted by NBR.
4. NBR will facilitate the transfer of funds received from the POS EFT Networks as a result of MERCHANT'S transaction activity. Funds will be transferred to MERCHANT'S bank account using the Automated Clearing House (ACH) of the Federal Reserve Bank, on a two-three (2-3) day delayed basis contingent upon receipt of funds by the NBR and method of MERCHANT statement reconciliation.
5. NBR may, upon receipt of written instructions from any POS EFT Network to which NBR is providing access hereunder, immediately cease to provide to MERCHANT, including MERCHANT'S customers, access to such POS EFT Network. NBR shall use its best efforts to promptly notify MERCHANT of such interruption in network access. MERCHANT shall indemnify and hold NBR harmless from any claims, liabilities, or losses, including costs and attorney's fees, resulting from NBR'S compliance with the written instructions of any POS EFT Network.
6. MERCHANT shall complete only those POS transactions that comply in all respects with the Operating Rules and which have been authorized.
7. MERCHANT shall honor all valid cards when presented for payment of POS transaction when such transactions can be initiated and completed electronically. When a technical malfunction prevents electronic initiation and completion of a transaction, MERCHANT is not obligated to complete such POS transaction.
8. MERCHANT shall treat transactions by any POS EFT Network cardholders in the same manner as transactions by any other cardholders.
9. MERCHANT shall, at its own expense, obtain and install POS Terminals, together with PIN Pads and other facilities necessary to support the system at MERCHANT locations. MERCHANT shall provide NBR and the POS EFT Network with a list of all MERCHANT locations currently with POS Terminals capable of accepting cards and shall provide a list as applicable. All POS Terminals shall accept cards. MERCHANT at all times shall maintain and operate the POS Terminals in accordance with the Operating Rules.
10. MERCHANT shall take all reasonable steps necessary to ensure that all POS Terminals and PIN Pads operated at MERCHANT locations:
 - (a) shall be available for use by cardholders of all provided POS EFT Networks for POS transactions; and
 - (b) shall function with a minimum of error and in a reliable manner and meet all applicable standards contained in the Technical Specifications and the Security Manual for POS EFT Network.
11. MERCHANT shall comply with the Operating Rules, the Graphics Standards Manual, the Security Manual, and all federal, state, and local laws applicable to its participation in the system, including without limitation statutes, regulations, and judicial decisions relating to POS transactions, POS Terminals sharing, consumer credit, consumer protection, electronic funds transfers, antitrust, franchise, and other trade regulation matters, and shall indemnify and hold NBR and POS EFT Network harmless against any and all liability or expenses related thereto. MERCHANT acknowledges that it may request and receive a copy of the Operating Rules or any such manual from NBR or Network.
12. At the time of any POS transaction involving a transfer of funds, MERCHANT shall make available to each cardholder a written receipt that complies fully with all applicable state and federal laws and regulation, including, but not limited to, Regulation E (12C.F.R. Part 205), and includes, but is not limited to, the following information:
 - (a) the amount of the POS transaction (the amount of any transaction fee levied by MERCHANTS may be included in this amount, provided the amount of the fee is disclosed on the receipt and the amount or percentage of the fee is disclosed on a sign posted on or at the POS terminal. The sign must indicate the entity charging the fee and disclose any other conditions pertaining to the fee or its method of calculation);
 - (b) the transaction date;
 - (c) the type of POS transaction and, if more than one type of account may be accessed at the POS Terminal by the cardholder, the type of account (checking, savings, etc.) and, if more than one account of the same type may be accessed at the POS Terminal by the cardholder the specific account accessed must be uniquely identified;
 - (d) a number or code that uniquely identifies the cardholder initiating the POS transaction, or the cardholder's account, or the card used to initiate the POS transaction;
 - (e) location of the POS terminal at which the POS transaction was initiated;
 - (f) the name of the MERCHANT providing the goods, services or money to the cardholder; and
 - (g) the trace number

The requirements of this Paragraph 13 shall not apply to POS transactions not involving the transfer of funds such as balance inquiries.

13. MERCHANT shall have at, or in proximity to, any POS Terminal where a card is accepted, an operating Track 2 magnetic stripe reader that meets the standards contained in the Technical Specifications and the Security Manual.
14. MERCHANT shall have at, or in proximity to, any POS Terminal where a card is accepted, an operating PIN Pad with an alpha-numeric keyboard that meets the standards contained in the POS EFT Network Technical Specifications.
15. MERCHANT shall require that the cardholder enter his PIN at, or in proximity to, the POS Terminal when initiating a POS transaction. MERCHANT may not require or request the cardholder's signature or any other means of verifying the cardholder's identity.
16. A POS transaction may be reversed or voided electronically, but only if such reversal/void is entered prior to midnight of the calendar day on which the POS transaction was initiated. To effect a reversal or void, cardholder must re-enter his PIN, the card must be read by the magnetic stripe reader, and MERCHANT must transmit the trace number and the exact dollar amount of the POS transaction to be reversed or voided. A reversal or void must be initiated at the same MERCHANT identified on the receipt at which the original POS transaction was initiated, but need not be initiated at the same POS Terminal.
17. Balance inquiries may be performed only at cardholder-operated terminals and shall at all times require entry of the cardholder's PIN and use of the magnetic stripe reader.
18. MERCHANT shall not disclose to third parties, other than: (a) the POS EFT Network or NBR or (b) otherwise specifically required by law, any information related to POS transactions (including, but not limited to, cardholder account information) without the prior written consent of the cardholder and the card issuing bank.
19. Cashback transactions:
 - (a) Cashback transactions shall be limited to the maximum of \$200 per cardholder on any transaction date. If MERCHANT allows cardholders to initiate cashback transactions, MERCHANT must transmit to the POS EFT Network for each cashback transaction initiated at MERCHANT'S location, the following information in its transaction message:
 - (i) the amount of cashback given to the cardholder pursuant to the POS transaction; and
 - (ii) Whether the POS transactions involved the issuance of scrip to the cardholder.
 - For purposes of cashback reporting required under this paragraph, the full amount debited from cardholder's account during a debit transaction initiated at terminal that issues scrip shall be reported as the cashback amount, regardless of the amount used by the cardholder to purchase goods or services at the MERCHANT'S location.
 - (b) If MERCHANT receives, in response to a request for authorization for a cashback transaction involving the purchase of goods and services, a denial code indicating that a cashback transaction has been denied solely because the cashback portion of the POS transaction would cause the cardholder to exceed a limit on cash withdrawals imposed on the cardholder by the card issuing bank, MERCHANT shall inform cardholder that the transaction was denied because it would cause the cardholder to exceed such limit on cash withdrawals, but that a new POS transaction in the amount of the purchase alone may be approved.
20. MERCHANT shall clearly and conspicuously post the following information at or near each of its scrip terminals:
 - (a) The location(s) or place(s) or redemption for scrip.
 - (b) The days and hours of operation of such location(s).
 - (c) Any time limit within which scrip must be redeemed.
 - (d) MERCHANT'S policy regarding lost or stolen scrip and refunds of unused scrip.
 - (e) Any restrictions, including daily transaction limits, imposed by MERCHANT, POS EFT Network or NBR on the number or value of transactions for the purchase of scrip.
 - (f) Any other restrictions on the issuance or redemption of scrip.
21. MERCHANT shall be responsible for and shall indemnify and hold POS EFT Network and NBR harmless against any and all liability or expense relating to the payment of federal, state, and local sales, use, and other taxes (other than such taxes based in whole or in part on income attributed to fees for services), when due or deemed to be due, as well as all other expenses, fees and charges imposed by a government, arising out of or incidental to its participation in the system.
22. MERCHANT is responsible for obtaining all insurance that may be required by reasonable prudent business practices.
23. MERCHANT agrees that, upon request, it will promptly provide to POS EFT Network or NBR any information reasonably requested by it to aid in determining whether MERCHANT is in compliance with the Operating Rules and the Graphics Standards Manual, the Security Manual and this agreement between Merchant and NBR, or POS EFT Network.
24. MERCHANT shall be responsible for connecting the POS terminals at each MERCHANT location.

25. **MERCHANT** shall promptly reimburse within three (3) business days of the event giving rise to any loss for the amount of all losses resulting from any of the following actions, including without limitation reasonable attorney's fees and court costs, in the event that **MERCHANT** or any of its agents or employees or any of the operators of its POS Terminals at **MERCHANT** locations or the employees or agents of any such operators: (a) knowingly permits anyone other than the cardholder, or a person expressly authorized by the cardholder, to use the card and to initiate any POS transaction, (b) permits the amount debited in a POS transaction by use of a card to exceed the actual amount of goods or services and cashback, if any, provided to such cardholder at the time in respect to such transaction, (c) circumvents the limit imposed by a **MERCHANT** on POS transactions by dual submissions for the same POS transaction, (d) otherwise permits the use of any card in any manner in violation of the Operating rules or the Security Manual, (e) completes any declined POS transactions, or (f) otherwise participates in any fraud resulting in loss.
26. **MERCHANT** shall retain records for each POS transaction for at least seven (7) years or for such longer period as is required by applicable federal or state law or regulation and/or in accordance with Network Operating Rules.
27. **MERCHANT** is responsible for investigation of any complaints regarding POS transactions in accordance with the requirements of the Operating Rules.
28. **POS EFT Networks**, **NBR** or its designated agent, on behalf of itself or others, shall have the right to inspect **MERCHANT'S** security systems and procedures from time to time after reasonable notice to **MERCHANT**.
29. **MERCHANT** acknowledges that **NBR** through the expenditure of a significant amount of time, effort, cost, and research, developed and secured the right to use various computer programs, forms, logos, manuals, and related materials, including without limitation the Operating Rules, which constitute property of great value and trade secrets, and that disclosure to others of such materials may result in loss and/or irreparable damage. **MERCHANT** further acknowledges that the system in its entirety constitutes a trade secret which is revealed to **MERCHANT** in confidence. Accordingly, **MERCHANT** agrees to hold and use any and all such property or information regarding the system in confidence, and not to disclose, reveal, copy, sell, transfer, sub-license, assign, or distribute any part of it, in any form, to any individual, firm, corporation, or other entity, nor permit any of its employees, agents, or representatives to do so, except as permitted by the Operating Rules, or otherwise expressly permitted in writing by the **NBR**. The **MERCHANT** further agrees that upon termination of this Agreement for any reason, it will immediately return all such property to **NBR**.

B. TERM AND TERMINATION:

1. This Agreement shall commence on the date hereof and will continue until terminated thereto.
2. This Agreement shall be terminated automatically upon the occurrence of any of the following events:
 - (a) bankruptcy or insolvency of the **MERCHANT**
 - (b) voluntary or involuntary liquidation of the **MERCHANT**
 - (c) any action by any governmental authority which terminates or impairs the right of **MERCHANT** to conduct its business, or
3. If **NBR** should at any time determine that the **MERCHANT** has breached any of the terms and conditions of this Agreement, **NBR** shall have the right to terminate this Agreement, with or without written notice and upon termination the **MERCHANT** agrees to cease immediately all use of or reference to any service marks, trademarks, logotypes, or graphics of the **NBR** or each **POS EFT Network** (the "Protected Marks") or such of them that shall be the subject of the notice.

C. USE OF PROTECTED MARKS:

1. **NBR** hereby grants **MERCHANT** a non-exclusive, non-transferable, limited sub-license to use the service mark(s) of those **POS EFT Networks** identified in Schedule F solely for use in connection with said Network's POS services (each a Protected Mark) and only in accordance with said Network's Rules, which includes graphics standards. No right, title, or interest in or to the Protected Marks has been transferred or is being transferred pursuant hereto, except the non-exclusive right to use the Protected Marks as provided in this Agreement.
2. **MERCHANT** shall have no power, right, or authority to transfer, assign, or license any rights in or to the use of any Protected Mark.
3. **MERCHANT** will not at any time do or cause to be done any act or deed in any way impairing or intended to impair the **NBR'S** or a **POS EFT Network's** exclusive right, title, and interest in and to its respective Protected Mark(s).
4. **MERCHANTS** shall permit the **NBR** and each **POS EFT Network**, at all reasonable times, to inspect the **MERCHANT'S** use of the Protected Marks in advertising or otherwise for review. Should any materials so submitted fail to meet with the **NBR'S**, or any **POS EFT Network's** requirements, the liability will fall on **MERCHANT** to make necessary change(s).

D. WARRANTY; LIMITATION OF LIABILITY:

1. THERE ARE NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
2. Except for insuring that funds are transferred to reimburse **MERCHANT** for each transaction, **NBR'S** liability, if any, arising out of or in any way related to its performance under this Agreement, including, but not limited to, liability for authorizing or failing to authorize transactions on behalf of **MERCHANT'S** customers, shall be limited to general money damages in an amount not to exceed the total transaction charges collected by Processor hereunder during the two (2) months ending with the latest month in which occurred the events, acts, delays, or omissions for which damages are claimed. Such general damages shall be the **MERCHANT'S** exclusive remedy, and **NBR** shall have no liability for special, incidental, or exemplary damages or sums paid by **MERCHANTS** to their parties.
3. No action arising out of this Agreement may be brought by either party more than one year after the cause of action has occurred. If **NBR** is required to appear in, or is made a defendant in, a legal action with respect to the transaction service, the **MERCHANT** shall indemnify and hold **NBR** harmless from all loss, liability, and expense, except for any loss, liability, or expense arising out of **NBR'S** own lack of reasonable care, in which case liability shall be limited as provided above.
4. **MERCHANT** agrees that **NBR** will not be liable for any loss, expense, or cost incurred by **MERCHANT**, customers, or any persons or entity as a result of any cause beyond the reasonable control of **NBR** including, but not limited to, weather and all other Acts of God, war, fire, explosions, power failures, government priorities (force majeure), labor difficulty, supplier failure or delay, civil disorder, or breakdown or malfunction of machinery, transportation facilities, or other equipment of any nature.
5. **NBR** makes no warranties, express or implied, with respect to the services, except as expressly provided in this Agreement. No verbal or written representation or statement made by any of its agents or employees including, but not limited to, any specifications, descriptions, or statements contained in user's guides provided to **MERCHANTS** shall be binding as a warranty or otherwise unless expressly contained in this Agreement.
6. **MERCHANT** shall be liable to **NBR** for any and all liabilities and every loss, cost, claim, demand, and cause of action (including, without limitation, the cost of investigating the claim, the cost of litigation and reasonable attorney's fees, whether or not legal proceedings are instituted) paid or incurred by or on behalf of **NBR** as a result of any failure of the **MERCHANT** to comply with the Operating Rules or applicable laws and regulations.
7. The parties agree that each will use its best efforts to comply with all applicable federal, state, and local laws, ordinance, rules and regulations.
8. No party shall be liable or deemed to be in default for any delay or failure to perform under this Agreement or for any interruption in the services resulting, directly or indirectly, from any cause beyond that party's reasonable control.
9. **NBR** will provide an "800" service to be used by **MERCHANT'S** employees in the event of equipment or service problems.
10. IN NO EVENT WILL **NBR** BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHICH **MERCHANT** MAY INCUR OR EXPERIENCE BY ENTERING INTO OR RELYING ON THIS AGREEMENT, EVEN IF **NBR** HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

E. GENERAL:

1. **MERCHANT** will maintain a commercial deposit account and hereby authorize **NBR** to present ACH credits and debits for the payment of funds due to or due from **MERCHANT**. **MERCHANT** shall supply **NBR** with the transit routing and account number for the account to be debited and/or credited pursuant to the terms of this Agreement.
2. An investigative consumer report may be done in connection with this application. **MERCHANT** authorizes **NBR**, or any credit bureau or any credit reporting agency employed by **NBR**, or any agents of **NBR** to investigate any statements or data obtained by **MERCHANT**, or any of **MERCHANT'S** principals. **MERCHANT** has a right, upon written request, to a complete and accurate disclosure of the nature and scope of the investigations requested.
3. All notices under this Agreement shall be deemed to have been given or made when personally delivered, or three (3) days after any of the same are deposited in the U.S. Mail, certified first class postage paid, or by an overnight courier service, pre-paid, addressed to the other parties at the addresses set forth in this Agreement (unless different addresses are provided by said parties).
4. This Agreement shall be binding upon and unto the benefit of **MERCHANT** and **NBR**, and their respective successors and permitted assigns. No assignment or transfer, including any transfer by operation of law or through merger or acquisition, by **MERCHANT** of this Agreement shall be effective without the prior written consent of **NBR**.
5. No Provision of the Agreement may be waived except by written waiver signed by **MERCHANT** or **NBR**. Any waiver of a provision, or any right or obligation of **MERCHANT** or **NBR** respectively, under this Agreement shall not be deemed a continuing waiver or a waiver of any such provision, right, or obligation unless the waiver expresses such intention.
6. This Agreement shall not be modified or amended except in writing executed by **NBR**, notification of which is sent to **MERCHANT** no less than thirty (30) days prior to the effective date of the modification or the amendment, except that amendments by **POS EFT Network** to the Operating Rules and the Graphics Standards Manual shall be binding on the parties when such amendments become effective.
7. This Agreement, including all exhibits, appendices and schedules, constitutes the entire Agreement between the parties and supersedes all prior agreements, negotiations, and communications.
8. This Agreement shall be governed by the laws of the State of California and the trademark laws of the United States of America.
9. If any provisions of this Agreement are held invalid, illegal, void or unenforceable by reason of any rule of law, administrative order, judicial decision or public policy, all other provisions of this Agreement shall nevertheless remain in full force and effect. **MERCHANT** represents that this Agreement constitutes a binding contractual commitment on its part, and that it has been fully authorized by appropriate corporate action.
10. Section headings are for convenience only and shall not be deemed to define, limit, or describe the scope or intent of this Agreement.
11. This Agreement shall become effective only upon being signed by authorized representatives of **MERCHANT** and **NBR**.

- F. FEES:** see schedule of fees (Preliminary schedule of fees on merchant application. **NBR** approved Schedule will be forwarded upon approval).